

**CONTRACT AMENDMENT NO. 6
LIFT CHAIR MAINTENANCE RIVERSIDE
CONTRACT NO. 17-007-YSD**

This CONTRACT AMENDMENT No.6 amends the above-referenced contract between the **State of Montana, Department of Corrections** (State), whose address and phone number are P.O. Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301, 406-444-3930 and **KONE Inc.**, (Contractor), whose address and phone number are 3110 E Lyndale Ave., Helena, MT 59601, (406) 449-1399. This Contract is amended for the following purpose(s):

WHEREAS, the State of Montana, Department of Corrections is hereinafter referred to as “State” rather than “Department”, in the opening paragraph, all references in the original contract, and all previous amendments.

- 1) In accordance with Section 1, of the above referenced contract, entitled Effective Date, Duration, and Renewal, parties mutually agree to extend this Contract for the period August 1, 2022, through July 31, 2023, per the terms, conditions, and prices agreed upon. This is the 6th renewal, 7th and final year of the Contract. This Contract, including any renewals, may not exceed a total of seven (7) years.
- 2) In accordance with Section 6, of the above reference contract, entitled Prevailing Wage Requirements, parties mutually agree to add subsection 6.5, entitled New Prevailing Wage Rates Applicable Upon Renegotiation, to the previously agreed upon language. Please see Attachment A, rates can also be located at the following link: <http://erd.dli.mt.gov/labor-standards/state-prevailing-wage-rates>

6.5 New Prevailing Wage Rates Applicable Upon Renegotiation. If the initial contract provides for an extension of the contract at the same negotiated compensation rate originally agreed on, this constitutes a “renewal” that would utilize the same prevailing wage rates (base and fringe benefits) in effect at the time of the initial solicitation.

An increased or decreased compensation rate for the contractor during the agreed extension of the contract constitutes a “renegotiation” and the prevailing wage rates in effect at the time of such renegotiation would apply. In addition, the 30-month period restarts.

- 3) In accordance with Section 21, of the above referenced contract, entitled Liaisons and Service of Notices, subsection 21.1, entitled Contract Liaisons, parties mutually agree to replace the State’s Liaison as shown below:

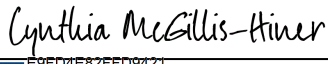
CURRENT: Keith Schultz is State’s Liaison
2 Riverside Road
Boulder, MT 59632
Phone: (406) 225-4515
kschultz@mt.gov

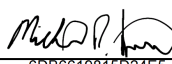
NEW: Shane Biltoft is State’s Liaison
2 Riverside Road
Boulder, MT 59632
(406) 225-4507
sbiltoft@mt.gov

Except as modified above, all other terms and conditions of Contract No. **17-007-YSD, including Amendments #1 through #4,** remain unchanged.

STATE OF MONTANA
Montana Department of Corrections
5 S. Last Chance Gulch
Helena, MT 59601

Kone, Inc.
3110 E Lyndale Ave.
Helena, MT 59601
FEDERAL ID # 36-2357423

DocuSigned by:

E9FD4E82FFD9421... 8/11/2022
Cynthia McGillis-Hiner (Date)
Bureau Chief
Health Services Bureau

DocuSigned by:

6DB6619815D24E5... 8/10/2022
Mike Sevores, Montana General Manager (Date)

Approved as to Form:

DocuSigned by:

B98C1BE4493E492... 8/10/2022
Ashley Salmon, Contracts Officer (Date)
Financial Services Bureau

Approved as to Legal Content:

DocuSigned by:

41E915492B274F4... 8/10/2022
Molenda McCarty, Legal Counsel (Date)
Legal Services Bureau

ATTACHMENT A
MONTANA
PREVAILING WAGE RATES FOR NONCONSTRUCTION SERVICES 2022

Effective: January 1, 2022

*Greg Gianforte,
Governor State of
Montana*

*Laurie Esau, Commissioner
Department of Labor &
Industry*

To obtain copies of prevailing wage rate schedules, or for information relating to public works projects and payment of prevailing wage rates, visit ERD at erd.dli.mt.gov/labor-standards or contact:

Employment Relations Division
Montana Department of Labor and Industry
P. O. Box 8011
Helena, MT 59620-1503
Phone 406-444-6543

The department welcomes questions, comments, and suggestions from the public. In addition, we'll do our best to provide information in an accessible format, upon request, in compliance with the Americans with Disabilities

Act. MONTANA PREVAILING WAGE REQUIREMENTS

The Commissioner of the Department of Labor and Industry, in accordance with Sections 18-2-401 and 18-2-402 of the Montana Code Annotated (MCA), has determined the standard prevailing rate of wages for the occupations listed in this publication.

The wages specified herein control the prevailing rate of wages for the purposes of Section 18-2-401, et seq., MCA. It is required each employer pay (as a minimum) the rate of wages, including fringe benefits, travel allowance, zone pay and per diem applicable to the district in which the work is being performed as provided in the attached wage determinations.

All Montana Prevailing Wage Rates are available on the Internet at erd.dli.mt.gov/labor-standards or by contacting the department at (406) 444-6543.

In addition, this publication provides general information concerning compliance with Montana's Prevailing Wage Law and the payment of prevailing wages. For detailed compliance information relating to public works contracts and payment of prevailing wage rates, please consult the regulations on the internet at erd.dli.mt.gov/labor-standards or contact the department at (406) 444-6543.

LAURIE ESAU
Commissioner
Department of Labor and
Industry State of Montana

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| Custodial or Security Services for Publicly Owned Buildings and Facilities | 9 |
| Grounds Maintenance for Publicly Owned Property | 9 |
| Operation of Public Drinking Water Supply, Waste Collection and Waste Disposal Systems | 12 |
| Law Enforcement, Including Correction and Detention Officers | 13 |
| Fire Protection | 13 |
| Public or School Transportation Driving | 14 |
| Nursing, Nurse's Aid Services, and Medical Laboratory Technician Services | 14 |
| Material and Mail Handling | 17 |
| Food Service and Cooking | 17 |
| Motor Vehicle and Construction Equipment Repair and Servicing | 17 |
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A. Date of Publication **Preliminary - Do Not Use For Bidding**

B. Definition of Nonconstruction Services Occupations

Section 18-2-401(9)(a)-(9)(l), MCA defines "nonconstruction services" as "...work performed by an individual, not including management, office, or clerical work, for:

(a) the maintenance of publicly owned buildings and facilities, including public highways, roads, streets, and alleys;

(b) custodial or security services for publicly owned buildings and facilities;

(c) grounds maintenance for publicly owned property;

(d) the operation of public drinking water supply, waste collection, and waste disposal systems;

(e) law enforcement, including janitors and prison guards;

(f) fire protection;

(g) public or school transportation driving;

(h) nursing, nurse's aid services, and medical laboratory technician services;

- (i) material and mail handling;*
- (j) food service and cooking;*
- (k) motor vehicle and construction equipment repair and servicing; and*
- (l) appliance and office machine repair and servicing.”*

C. Definition of Public Works Contract

Section 18-2-401(11)(a), MCA defines “public works contract” as “...a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of \$25,000...”

D. Prevailing Wage Schedule

This publication covers only Nonconstruction Service occupations and rates. These rates will remain in effect until superseded by a more current publication. Current prevailing wage rate schedules for Heavy, Highway, and Building Construction occupations can be found on the Internet at erd.dli.mt.gov/labor-standards or by contacting the department at (406) 444-6543.

E. Rates to Use for Projects

ARM, 24.17.127(1)(c), states “The wage rates applicable to a particular public works project are those in effect at the time the bid specifications are advertised.”

F. Wage Rate Adjustments for Multiyear Contracts

Section 18-2-417, MCA states:

“(1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency.”

G. Fringe Benefits

Section 18-2-412, MCA states:

“(1) To fulfill the obligation...a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the U. S. department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits and travel allowances, applicable to the district for the particular type of work being performed.

(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the U. S. department of labor.”

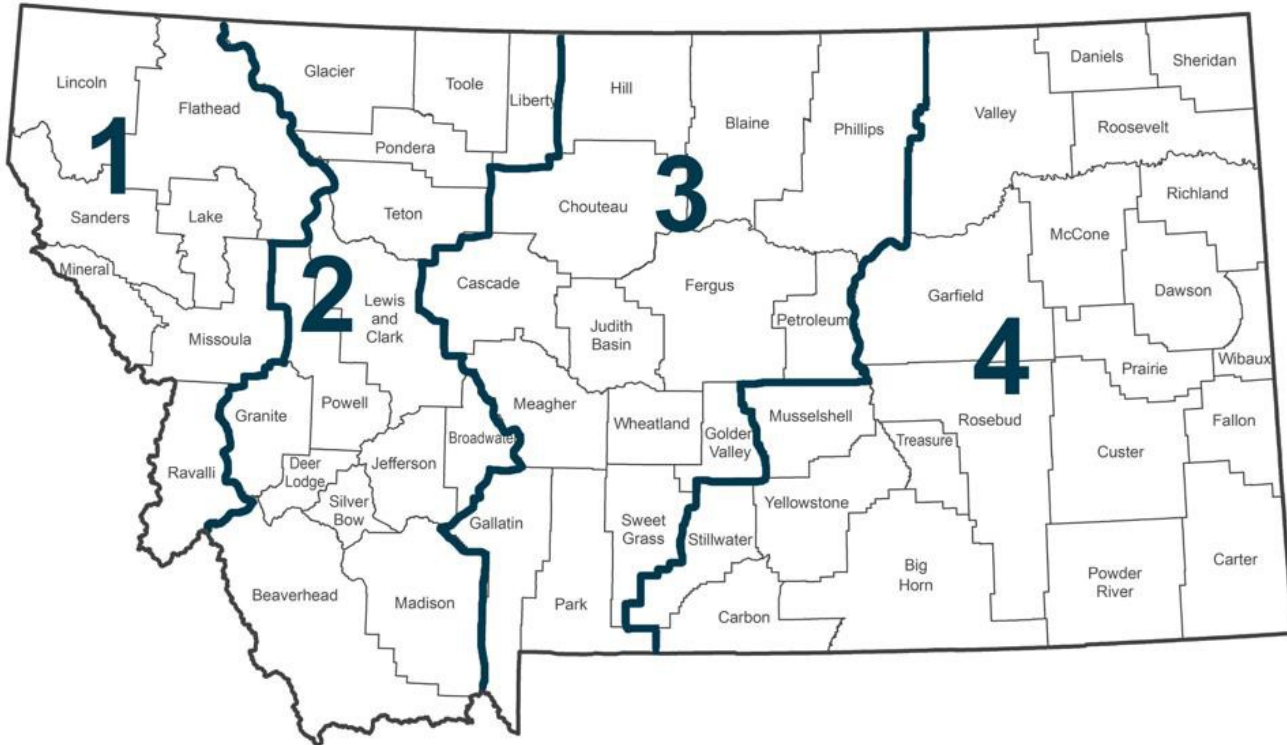
Fringe benefits are paid for all hours worked (straight time and overtime hours). However, fringe benefits are not to be considered a part of the hourly rate of pay for calculating overtime, unless there is a

collectively bargained agreement in effect that specifies otherwise.

H. Prevailing Wage Districts

Montana counties are aggregated into 4 districts for the purpose of prevailing wage. The prevailing wage districts are composed of the following counties:

Montana Prevailing Wage Districts



I. Dispatch City

ARM, 24.17.103(11), defines dispatch city as “...the courthouse in the city from the following list which is closest to the center of the job: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, Miles City, Missoula and Sidney.” A dispatch city shall be considered the point of origin only for jobs within the counties identified in that district (as shown below):

- District 1 - Kalispell and Missoula: includes Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders;
- District 2 - Butte and Helena: includes Beaverhead, Broadwater, Deer Lodge, Glacier, Granite, Jefferson, Lewis and Clark, Liberty, Madison, Pondera, Powell, Silver Bow, Teton, and Toole;
- District 3 - Bozeman and Great Falls: includes Blaine, Cascade, Chouteau, Fergus, Gallatin, Golden Valley, Hill, Judith Basin, Meagher, Park, Petroleum, Phillips, Sweet Grass, and Wheatland;
- District 4 - Billings, Miles City and Sidney: includes Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Musselshell, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Treasure, Valley, Wibaux, and Yellowstone.

J. Zone Pay

Zone pay is not travel pay. ARM, 24.17.103(24), defines zone pay as “...an amount added to the base pay; the combined sum then becomes the new base wage rate to be paid for all hours worked on the project. Zone pay must be determined by measuring the road miles one way over the shortest practical maintained route from the dispatch city to the center of the job.” See section I above for a list of dispatch cities.

K. Computing Travel Benefits

ARM, 24.17.103(22), states “ ‘Travel pay,’ also referred to as ‘travel allowance,’ is and must be paid for travel both to and from the job site, except those with special provisions listed under the classification. The rate is determined by measuring the road miles one direction over the shortest practical maintained route from the dispatch city or the employee’s home, whichever is closer, to the center of the job.” See section I above for a list of dispatch cities.

L. Per Diem

ARM, 24.17.103(18), states “ ‘Per diem’ typically covers costs associated with board and lodging expenses. Per diem is paid when an employee is required to work at a location outside the daily commuting distance and is required to stay at that location overnight or longer.”

M. Apprentices

Wage rates for apprentices registered in approved federal or state apprenticeship programs are contained in those programs. Additionally, section 18-2-416(2), MCA states “...The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract.” Apprentices not registered in approved federal or state apprenticeship programs will be paid the appropriate journey level prevailing wage rate when working on a public works contract.

N. Posting Notice of Prevailing Wages

Section 18-2-406, MCA provides that contractors, subcontractors and employers who are “...performing work or providing construction services under public works contracts, as provided in this part, shall post in a prominent and accessible site on the project or staging area, not later than the first day of work and continuing for the entire duration of the project, a legible statement of all wages and fringe benefits to be paid to the employees.”

O. Employment Preference

Sections 18-2-403 and 18-2-409, MCA requires contractors to give preference to the employment of bona fide Montana residents in the performance of work on public works contracts.

P. Occupations Definitions

You can find definitions for these occupations on the following Bureau of Labor Statistics website:

<https://erd.dli.mt.gov/labor-standards/state-prevailing-wage-rates/nonconstruction-services-occupations>

Q. Nonconstruction Services Occupations

MAINTENANCE OF PUBLICLY OWNED BUILDINGS AND FACILITIES

ELEVATOR REPAIRERS

MAINTENANCE AND REPAIR WORKERS (GENERAL)

STATIONARY ENGINEERS AND BOILER OPERATORS

CUSTODIAL OR SECURITY SERVICES FOR PUBLICLY OWNED BUILDINGS AND FACILITIES

ENVIRONMENTAL SERVICES WORKERS

JANITORS AND CLEANERS

PARKING ENFORCEMENT WORKERS

PARKING LOT ATTENDANTS

SECURITY AND FIRE ALARM SYSTEMS REPAIRERS

SECURITY GUARDS

GROUNDS MAINTENANCE FOR PUBLICLY OWNED PROPERTY

FALLERS

FOREST AND CONSERVATION TECHNICIANS

FOREST AND CONSERVATION WORKERS

FOREST EQUIPMENT OPERATORS

LANDSCAPING AND GROUNDSKEEPING WORKERS

MATERIAL MOVING WORKERS (ALL OTHER)

MEDIUM TRUCK DRIVERS

PEST CONTROL WORKERS

PESTICIDE HANDLERS, SPRAYERS, AND APPLICATORS (VEGETATION)
TREE TRIMMERS AND PRUNERS (RIGHT AWAY)

OPERATION OF PUBLIC DRINKING WATER SUPPLY,
WASTE COLLECTION, AND WASTE DISPOSAL
SYSTEMS

HEAVY AND TRACTOR TRAILER TRUCK DRIVERS
LANDFILL ATTENDANTS AND EQUIPMENT OPERATORS
RECYCLING AND RECLAMATION WORKERS
REFUSE AND RECYCLABLE MATERIALS COLLECTORS
SEPTIC TANK SERVICES AND SEWER PIPE CLEANERS
WATER AND WASTEWATER TREATMENT PLANT AND SYSTEM OPERATORS

LAW ENFORCEMENT, INCLUDING CORRECTION AND DETENTION OFFICERS

CORRECTION AND DETENTION OFFICERS
POLICE, FIRE, AND DISPATCHERS
PROBATION OFFICERS AND CORRECTIONAL TREATMENT SPECIALISTS

FIRE PROTECTION

FIRE EXTINGUISHER REPAIRERS
FOREST FIREFIGHTERS

PUBLIC OR SCHOOL TRANSPORTATION DRIVING

BUS DRIVERS (SCHOOL OR SPECIAL CLIENT)
BUS DRIVERS (TRANSIST AND INTERCITY)
LIGHT TRUCK OR DELIVERY SERVICES DRIVERS (INCLUDES VAN DRIVERS)

NURSING, NURSE'S AID SERVICES, AND MEDICAL LABORATORY TECHNICIAN SERVICES

BREATH ALCOHOL TECHNICIANS
EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS
HOME HEALTH AIDES
LICENSED PRACTICAL NURSES
MEDICAL AND CLINICAL LABORATORY TECHNICIANS
MEDICAL AND CLINICAL LABORATORY TECHNOLOGISTS
MEDICAL ASSISTANTS
NURSE
PRACTITIONERS
NURSING ASSISTANTS
ORDERLIES
PERSONAL CARE AIDES
PHYSICIANS ASSISTANTS
REGISTERED NURSES

MATERIAL AND MAIL HANDLING

FREIGHT, STOCK, AND MATERIAL HANDLERS

FOOD SERVICE AND COOKING

COOKS (INSTITUTION AND CAFETERIA)
FOOD PREPARATION AND SERVING RELATED WORKERS

MOTOR VEHICLE AND CONSTRUCTION EQUIPMENT REPAIR AND SERVICING

AUTOMOTIVE SERVICE TECHNICIANS AND MECHANICS
BUS AND TRUCK MECHANICS AND DIESEL ENGINE SPECIALISTS
CONSTRUCTION EQUIPMENT MECHANICS

APPLIANCE AND OFFICE MACHINE REPAIR AND SERVICING

APPLIANCE MECHANICS
COMPUTER, AUTOMATED TELLER, AND OFFICE MACHINE REPAIRERS
COMPUTER USER SUPPORT SPECIALISTS

WAGE RATES

MAINTENANCE OF PUBLICLY OWNED BUILDINGS AND FACILITIES

ELEVATOR REPAIRERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$57.73 | \$40.98 |
| District 2 | \$57.73 | \$40.98 |
| District 3 | \$57.73 | \$40.98 |
| District 4 | \$57.73 | \$40.98 |

Travel:

All Districts

0-15 mi. free zone

>15-25 mi. \$49.88/day

>25-35 mi. \$99.75/day

>35 mi. \$84.90/day or cost of receipts for hotel and meals, whichever is greater.

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MAINTENANCE AND REPAIR WORKERS (GENERAL)

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$20.91 | \$8.07 |
| District 2 | \$18.71 | \$7.56 |
| District 3 | \$18.51 | \$8.11 |
| District 4 | \$21.67 | \$6.24 |

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STATIONARY ENGINEERS AND BOILER OPERATORS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$21.79 | \$8.69 |
| District 2 | \$23.78 | \$8.69 |
| District 3 | \$28.70 | \$8.69 |
| District 4 | \$24.02 | \$8.69 |

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CUSTODIAL OR SECURITY SERVICES FOR PUBLICLY OWNED BUILDINGS AND FACILITIES

ENVIRONMENTAL SERVICES WORKERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$15.10 | \$3.84 |
| District 2 | \$14.21 | \$4.25 |
| District 3 | \$12.44 | \$4.55 |
| District 4 | \$13.96 | \$4.67 |

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JANITORS AND CLEANERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$15.10 | \$5.33 |
| District 2 | \$16.60 | \$6.96 |
| District 3 | \$15.88 | \$5.34 |
| District 4 | \$15.10 | \$5.25 |

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PARKING ENFORCEMENT WORKERS

No Rate Established

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PARKING LOT ATTENDANTS

No Rate Established

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SECURITY AND FIRE ALARM SYSTEMS REPAIRERS

No Rate Established

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SECURITY GUARDS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$15.39 | \$0.88 |
| District 2 | \$15.28 | \$1.54 |
| District 3 | \$16.15 | \$4.20 |
| District 4 | \$16.24 | \$4.12 |

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GROUNDS MAINTENANCE FOR PUBLICLY OWNED PROPERTY

FALLERS

No Rate Established

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FOREST AND CONSERVATION TECHNICIANS

No Rate Established

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FOREST AND CONSERVATION WORKERS

No Rate Established

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FOREST EQUIPMENT OPERATORS

No Rate Established

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LANDSCAPING AND GROUNDSKEEPING WORKERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$17.39 | \$6.41 |
| District 2 | \$18.62 | \$6.71 |
| District 3 | \$17.25 | \$7.11 |
| District 4 | \$13.62 | \$2.46 |

Duties Include:
Shovel snow from walks, driveways, or parking lots and spread salt in those areas. Grounds maintenance of cemeteries.

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MATERIAL MOVING WORKERS (ALL OTHER)

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$22.85 | \$ 9.93 |
| District 2 | \$22.67 | \$ 9.91 |
| District 3 | \$23.88 | \$10.63 |
| District 4 | \$24.03 | \$10.79 |

Occupations Include:
Bulldozer Operator, Freight Elevator Operator, Shovel Operator

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MEDIUM TRUCK DRIVERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$23.56 | \$10.03 |
| District 2 | \$25.09 | \$10.78 |
| District 3 | \$24.61 | \$11.16 |
| District 4 | \$23.96 | \$10.60 |

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PEST CONTROL WORKERS

No Rate Established

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PESTICIDE HANDLERS, SPRAYERS, AND APPLICATORS (VEGETATION)

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$18.90 | \$7.84 |
| District 2 | \$15.86 | \$5.42 |
| District 3 | \$14.64 | \$4.98 |
| District 4 | \$15.96 | \$5.67 |

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TREE TRIMMERS AND PRUNERS (RIGHT AWAY)

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$27.18 | \$12.62 |
| District 2 | \$27.18 | \$12.62 |
| District 3 | \$25.29 | \$12.50 |
| District 4 | \$28.64 | \$10.28 |

| |
|--------------------------|
| Travel |
| Districts 1 - 3 |
| No Rate Established |
| District 4 |
| 0-25 mi. - free zone |
| >25-50 mi. - \$20.00/day |
| >50 mi. - \$70.00/day |

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OPERATION OF PUBLIC DRINKING WATER SUPPLY,
WASTE COLLECTION, AND WASTE DISPOSAL SYSTEMS

HEAVY AND TRACTOR-TRAILER TRUCK DRIVERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$22.68 | \$9.79 |
| District 2 | \$22.68 | \$9.79 |
| District 3 | \$22.68 | \$9.79 |
| District 4 | \$23.37 | \$9.79 |

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LANDFILL ATTENDANTS AND EQUIPMENT OPERATORS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$18.27 | \$9.44 |
| District 2 | \$19.14 | \$9.21 |
| District 3 | \$20.21 | \$8.64 |
| District 4 | \$16.26 | \$4.13 |

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RECYCLING AND RECLAMATION WORKERS

No Rate Established

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REFUSE AND RECYCLABLE MATERIALS COLLECTORS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$21.44 | \$11.27 |
| District 2 | \$21.44 | \$11.27 |
| District 3 | \$21.72 | \$10.59 |
| District 4 | \$22.03 | \$ 9.78 |

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SEPTIC TANK SERVICES AND SEWER PIPE CLEANERS

No Rate Established

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WATER AND WASTEWATER TREATMENT PLANT AND SYSTEM OPERATORS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$21.91 | \$10.19 |
| District 2 | \$28.09 | \$ 9.66 |
| District 3 | \$23.84 | \$ 9.60 |
| District 4 | \$22.73 | \$ 7.10 |

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LAW ENFORCEMENT, INCLUDING CORRECTION AND DETENTION OFFICERS

CORRECTION AND DETENTION OFFICERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$20.53 | \$ 9.82 |
| District 2 | \$21.05 | \$12.65 |
| District 3 | \$19.27 | \$ 7.56 |
| District 4 | \$22.27 | \$11.12 |

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POLICE, FIRE, AND AMBULANCE DISPATCHERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$21.69 | \$9.69 |
| District 2 | \$20.46 | \$8.22 |
| District 3 | \$18.56 | \$7.09 |
| District 4 | \$20.88 | \$8.31 |

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PROBATION OFFICERS AND CORRECTIONAL TREATMENT SPECIALISTS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$17.06 | \$ 9.00 |
| District 2 | \$21.74 | \$12.60 |
| District 3 | \$20.20 | \$ 8.02 |
| District 4 | \$19.39 | \$ 8.02 |

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FIRE PROTECTION

FIRE EXTINGUISHER REPAIRERS

No Rate Established

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FOREST FIREFIGHTERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$17.67 | \$0.00 |
| District 2 | \$17.67 | \$0.00 |
| District 3 | \$17.67 | \$0.00 |
| District 4 | \$17.67 | \$0.00 |

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PUBLIC OR SCHOOL TRANSPORTATION DRIVING

BUS DRIVERS (SCHOOL OR SPECIAL CLIENT)

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$15.80 | \$5.45 |
| District 2 | \$19.24 | \$5.93 |
| District 3 | \$21.39 | \$4.51 |
| District 4 | \$19.42 | \$3.48 |

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BUS DRIVERS (TRANSIT AND INTERCITY)

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$13.90 | \$5.79 |
| District 2 | \$17.46 | \$5.99 |
| District 3 | \$15.98 | \$6.51 |
| District 4 | \$19.00 | \$5.31 |

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LIGHT TRUCK OR DELIVERY SERVICES DRIVERS (INCLUDES VAN DRIVERS)

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$14.96 | \$6.15 |
| District 2 | \$14.96 | \$6.15 |
| District 3 | \$14.92 | \$6.39 |
| District 4 | \$14.92 | \$6.39 |

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NURSING, NURSE'S AID SERVICES, AND MEDICAL LABORATORY TECHNICIAN SERVICES

BREATH ALCOHOL TECHNICIANS

No Rate Established

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EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$14.44 | \$4.37 |
| District 2 | \$16.08 | \$5.67 |
| District 3 | \$18.82 | \$5.67 |
| District 4 | \$14.82 | \$1.86 |

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HOME HEALTH AIDES

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$11.92 | \$4.24 |
| District 2 | \$12.34 | \$1.56 |
| District 3 | \$14.32 | \$3.30 |
| District 4 | \$12.15 | \$2.93 |

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LICENSED PRACTICAL NURSES

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$24.55 | \$6.76 |
| District 2 | \$22.42 | \$5.93 |
| District 3 | \$24.14 | \$3.88 |
| District 4 | \$23.92 | \$5.32 |

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MEDICAL AND CLINICAL LABORATORY TECHNICIANS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$25.60 | \$5.86 |
| District 2 | \$27.33 | \$5.73 |
| District 3 | \$29.90 | \$5.48 |
| District 4 | \$23.57 | \$5.48 |

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MEDICAL AND CLINICAL LABORATORY TECHNOLOGIST

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$32.70 | \$9.09 |
| District 2 | \$32.57 | \$7.48 |
| District 3 | \$32.29 | \$6.67 |
| District 4 | \$33.54 | \$6.78 |

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MEDICAL ASSISTANTS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$18.20 | \$5.33 |
| District 2 | \$14.36 | \$4.95 |
| District 3 | \$16.17 | \$4.43 |
| District 4 | \$18.03 | \$7.75 |

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NURSE PRACTITIONERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$53.27 | \$11.36 |
| District 2 | \$53.10 | \$ 9.72 |
| District 3 | \$53.29 | \$ 8.42 |
| District 4 | \$56.72 | \$16.15 |

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NURSING ASSISTANTS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$15.60 | \$3.47 |
| District 2 | \$16.75 | \$5.29 |
| District 3 | \$15.52 | \$3.45 |
| District 4 | \$15.57 | \$3.82 |

Occupations Include:
Certified Nursing Assistants, Hospital Aides, Infirmary Attendants

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ORDERLIES

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$16.37 | \$4.09 |
| District 2 | \$16.37 | \$4.09 |
| District 3 | \$16.37 | \$4.09 |
| District 4 | \$16.37 | \$4.09 |

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PERSONAL CARE AIDES

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$11.92 | \$4.24 |
| District 2 | \$12.34 | \$1.56 |
| District 3 | \$14.32 | \$3.30 |
| District 4 | \$12.15 | \$2.93 |

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PHYSICIANS ASSISTANTS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$51.73 | \$13.14 |
| District 2 | \$62.64 | \$12.44 |
| District 3 | \$74.86 | \$12.62 |
| District 4 | \$59.77 | \$13.45 |

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REGISTERED NURSES

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$33.51 | \$8.37 |
| District 2 | \$32.86 | \$7.03 |
| District 3 | \$33.13 | \$6.68 |
| District 4 | \$34.70 | \$8.48 |

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MATERIAL AND MAIL HANDLING

FREIGHT, STOCK, AND MATERIAL HANDLERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$15.41 | \$4.75 |
| District 2 | \$15.40 | \$5.52 |
| District 3 | \$15.26 | \$5.75 |
| District 4 | \$15.71 | \$5.98 |

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FOOD SERVICE AND COOKING

COOKS, (INSTITUTION AND CAFETERIA)

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$14.87 | \$4.87 |
| District 2 | \$14.25 | \$4.07 |
| District 3 | \$14.18 | \$4.52 |
| District 4 | \$14.79 | \$4.54 |

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FOOD PREPARATION AND SERVING RELATED WORKERS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$11.64 | \$3.00 |
| District 2 | \$11.71 | \$4.64 |
| District 3 | \$11.84 | \$3.45 |
| District 4 | \$12.12 | \$3.33 |

Occupations Include:

Dietary Aides, Counter Attendants, and Dining Room Attendants.

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MOTOR VEHICLE AND CONSTRUCTION EQUIPMENT REPAIR AND SERVICING

AUTOMOTIVE SERVICE TECHNICIANS AND MECHANICS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$20.56 | \$2.91 |
| District 2 | \$23.35 | \$3.32 |
| District 3 | \$23.66 | \$5.44 |
| District 4 | \$27.00 | \$4.70 |

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BUS AND TRUCK MECHANICS AND DIESEL ENGINE SPECIALISTS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$23.64 | \$7.84 |
| District 2 | \$23.97 | \$8.01 |
| District 3 | \$20.78 | \$6.44 |
| District 4 | \$21.37 | \$6.74 |

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CONSTRUCTION EQUIPMENT MECHANICS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$25.64 | \$10.32 |
| District 2 | \$27.17 | \$ 8.08 |
| District 3 | \$25.26 | \$11.13 |
| District 4 | \$24.11 | \$12.36 |

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APPLIANCE AND OFFICE MACHINE REPAIR AND SERVICING

APPLIANCE MECHANICS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$16.03 | \$1.70 |
| District 2 | \$15.90 | \$1.70 |
| District 3 | \$15.00 | \$1.70 |
| District 4 | \$17.18 | \$1.70 |

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COMPUTER, AUTOMATED TELLER, AND OFFICE MACHINE REPAIRERS

No Rate Established

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COMPUTER USER SUPPORT SPECIALISTS

| | Wage | Benefit |
|------------|---------|---------|
| District 1 | \$28.67 | \$8.57 |
| District 2 | \$27.59 | \$8.25 |
| District 3 | \$27.77 | \$8.17 |
| District 4 | \$27.41 | \$8.32 |

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CONTRACT AMENDMENT NO. 5
CONTRACT FOR: LIFT CHAIR MAINTENANCE RIVERSIDE
CONTRACT NO. 17-007-YSD

This CONTRACT AMENDMENT No. 5 amends the above-referenced contract between the **State of Montana, Department of Corrections** (Department), whose address and phone number are P.O. Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301, 406-444-3930 and **KONE Inc.**, (Contractor), whose address and phone number are 3110 E. Lyndale Ave., Helena, MT 59601 and (406) 449-1399. This Contract is amended for the following purpose(s):

- 1) In accordance with Section 1, of the above referenced contract, entitled Effective Date, Duration, and Renewal, parties mutually agree to extend this Contract for the period August 1, 2021, through July 31, 2022, per the terms, conditions, and prices agreed upon. This is the 5th renewal, 6th year of the Contract. This Contract, including any renewals, may not exceed a total of seven (7) years.
- 2) In accordance with Section 4 and subsections of the above referenced contract, entitled Consideration/Payment, subsection 4.1A parties mutually agree to an increase in the monthly rate and annual total contract value.

Current:

A. Department shall pay Contractor \$79.00 per month, not to exceed nine hundred forty-eight and 00/100 Dollars (\$948.00) per Fiscal Year for the services described herein.

New:

A. Department shall pay Contractor \$82.56 per month, not to exceed nine hundred ninety and 72/100 Dollars (\$990.72) per Fiscal Year for the services described herein.

Subsection 4.1B No Changes

- 3) In accordance with Section 9, of the above referenced contract, entitled Defense, Indemnification/Hold Harmless, parties mutually agree to replace the previously agreed upon language to the language as shown below:

9. DEFENSE, INDEMNIFICATION / HOLD HARMLESS

Contractor shall protect, defend, indemnify, and save harmless the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, liabilities, demands, causes of action, judgments, and losses, including all costs of defense and reasonable attorney fees, arising in favor of or asserted by Contractor's employees and agents, its subcontractors, its subcontractor's employees and agents, or third parties on account of property damage, personal injury, bodily injury, death, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of or in connection with this Contract.

Contractor waives all claims, demands, causes of action, and recourse against the State, including claims of contribution or indemnity, arising in favor of Contractor on account of property damage, personal injury, bodily injury, death, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of or in connection with this Contract.

- 4) In accordance with Section 13, of the above referenced contract, entitled Compliance with Laws, parties mutually agree to replace the previously agreed upon language to the language as shown below:

13. COMPLIANCE WITH LAWS

Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act 42 U.S.C. § 18001 et seq. Contractor will comply with the Prison Rape Elimination Act 34 U.S.C. § 30301 et seq., the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.1.17, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. State has a zero-tolerance policy as to incidents of sexual assault/rape or sexual misconduct in its correctional facilities or premises. Contractor is referred to § 45-5-501 MCA. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with § 49-3-207, MCA, and State of Montana Executive Order No. 04-2016, Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

13.1 Affordable Care Act. The Affordable Care Act requires a Contractor, if Contractor is an applicable large employer under the ACA, to provide healthcare coverage for its employees who provide services for the State and work for 30 or more hours per week. This coverage must also cover the eligible employee's dependents under the age of 26. The coverage must (a) meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions under Section 4980H of the Code (ACA), and (b) otherwise satisfy the requirements of the Code § 4980H (ACA) if provided by the State.

REST OF PAGE INTENTIONALLY LEFT BLANK

- 5) In accordance with Section 15, of the above referenced contract, entitled Registration with the Secretary of State, parties mutually agree to replace the previously agreed upon language to the State's current language as shown below:

15. REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are domiciled in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with §§ 35-14-1505, 35-8-1001, and 35-12-1309 MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. §§ 35-8-1001, 35-12-1302, and 35-14-1502, MCA. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

Except as modified above, all other terms and conditions of Contract No **17-036-PPD, including Amendments #1 through #4**, remain unchanged.

STATE OF MONTANA
Montana Department of Corrections
5 S. Last Chance Gulch
Helena, MT 59601

KONE, Inc.
3110 E. Lyndale Ave.
Helena, MT 59601

DocuSigned by:

 ABDE2DE1207948A
 Connie Winner, Administrator (Date)
 Clinical Services Division

DocuSigned by:

 6DB6619815D24E5
 Mike Sevores, Montana General Manager (Date)

Approved as to Form:

DocuSigned by:

 A435EB7ACCD641B
 Jason M. Collins, Contracts Officer (Date)
 Department of Corrections

Approved as to Legal Content:

DocuSigned by:

 41E916492B274F4...
 Molenda McCarty, Staff Attorney (Date)
 Department of Corrections

CONTRACT AMENDMENT NO. 4
CONTRACT FOR: LIFT CHAIR MAINTENANCE RIVERSIDE
CONTRACT NO: 17-007-YSD

This CONTRACT AMENDMENT No. 4 amends the above-referenced contract between the **State of Montana, Department of Corrections (DEPARTMENT)**, whose address and phone number are P.O. Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301, 406-444-3930 and **KONE, Inc. (CONTRACTOR)**, whose address and phone number are 3110 E. Lyndale Ave., Helena, MT 59601 and 406-449-1399. This Contract is amended for the following purpose(s):

WHEREAS, the reference in Section 13 to "Prison Rape Elimination Act 42 U.S.C.A § 15601ff" has Been replaced with "Prison Rape Elimination Act 34 U.S.C. § 30301, et seq." to reconcile with the transfer in the United States Code by the compilers of the code.

WHEREAS, the reference in Section 15 to § 35-1-1026 MCA, has been replaced with § 35-14-1502, MCA, to reconcile with current Montana Code Annotated.

- 1) In accordance with Section 1, of the above referenced contract, entitled Effective Date, Duration, and Renewal, parties mutually agree to extend this Contract for the period August 1, 2020 through July 31, 2021 per the terms, conditions, and prices agreed upon. This is the 4th renewal, 5th year of the Contract.

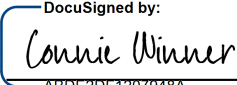
Except as corrected and modified above, all other terms and conditions of Contract No. **17-007-YSD**, including **Amendments #1- #3**, remain unchanged.

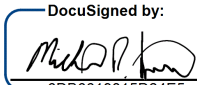
STATE OF MONTANA
Montana Department of Corrections
5 S. Last Chance Gulch
Helena, MT 59601

KONE, Inc.
3110 E. Lyndale Ave.
Helena, MT 59601

BY: Connie Winner, Administrator
 (Name/Title)

BY: Mike Sevores, Sr., Vice-President
 (Name/Title)

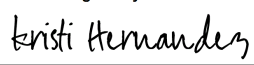
SIGNATURE: 
DocuSigned by: ABDE2DF1207948A...

SIGNATURE: 
DocuSigned by: 6DB6619815D24E5...

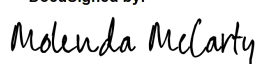
DATE: 8/27/2020

DATE: 8/27/2020

Approved as to Form:


DocuSigned by: 3C5659C707644B2...
Kristi Hernandez 8/13/2020
 Contract Officer (Date)
 Department of Corrections

Approved as to Legal Content:


DocuSigned by: 41E915492B274F4...
Melinda McLarty 8/12/2020
 Legal Counsel (Date)
 Department of Corrections

CONTRACT AMENDMENT NO. 3
CONTRACT FOR: Lift Chair Maintenance Riverside
CONTRACT NO: 17-007-YSD

This CONTRACT AMENDMENT No. 3 amends the above-referenced contract between the State of Montana, Department of Corrections (STATE), whose address and phone number are P.O. Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301, 406-444-3930 and KONE, Inc., (CONTRACTOR), whose address and phone number are 3110 E. Lyndale Ave. and (406)-449-1399. This Contract is amended for the following purpose(s):

- 1) In accordance with Section 1, of the above referenced contract, entitled Effective Date, Duration, and Renewal, both parties mutually agree to extend this Contract for the period August 1, 2019, through July 31, 2020 per the terms, conditions, and prices agreed upon. This is the 3rd renewal, 4th year of the Contract.
- 2) In accordance with Section 3, of the above referenced contract, entitled Services and/or Supplies, both parties mutually agree to change the name of the facility.

Previous Name: Riverside Recovery and Reentry Center

Current Name: Riverside Special Needs Facility

- 3) In accordance with Section 22, of the above referenced contract, entitled Liaisons and Service of Notices, both parties mutually agree to a change in the Department's Contract Liaison.

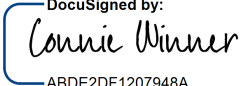
Previous Contract Liaison: Dan Kissner is the Department's liaison.
2 Riverside Road
Boulder, MT 59632
Telephone: (406)-225-4502
E-mail: dkissner@mt.gov

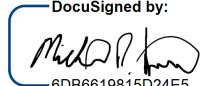
New Contract Liaison: Keith Schultz is the Department's liaison.
2 Riverside Road
Boulder, MT 59632
Telephone: (406)-225-4515
E-mail: kshultz@mt.gov

Except as modified above, all other terms and conditions of Contract No. 17-007-YSD remain unchanged.

STATE OF MONTANA
Department of Corrections
5 South Last Chance Gulch
Helena, MT 59601

KONE, Inc.
3110 E. Lyndale Ave
Helena, MT 59601

DocuSigned by:

BY: _____
ABDE2DF1207948A...
Connie Winner, Administrator
Clinical Services Division

DocuSigned by:

BY: _____
6DB6619815D24E5...
Mike Sevores, Sr. Vice President
KONE, Inc.

DATE: 6/28/2019 _____

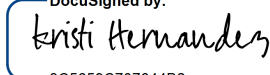
DATE: 6/27/2019 _____

Approved as to Legal Content:

DocuSigned by:
 6/27/2019
FFF888078013447...

Legal Counsel (Date)

Approved as to Form:

DocuSigned by:
 6/25/2019
3C5659C707644B2...

Procurement Officer (Date)
Department of Corrections

Lift Chair Maintenance Riverside
(17-007-YSD)

THIS CONTRACT is entered into by and between the State of Montana, **Montana Department of Corrections** (Department), whose address and phone number are **5 S. Last Chance Gulch, Helena, MT 59601, (406) 444-3930** and **KONE, Inc.**, (Contractor), whose address and phone number are **3110 E. Lyndale Ave. and (406)-449-1399**.

1. EFFECTIVE DATE, DURATION, AND RENEWAL

1.1 Contract Term. The contract's initial term is upon contract execution through **July 31, 2019**, unless terminated earlier as provided in this contract. In no event is this contract binding on the Department unless the Department's authorized representative has signed it. The legal counsel signature approving legal content of the contract does not constitute an authorized signature.

1.2 Contract Renewal. The Department may renew this contract under its then-existing terms and conditions (subject to potential cost adjustments described below in section 2) in one-year intervals, or any interval that is advantageous to the Department. This contract, including any renewals, may not exceed a total of seven (7) years.

2. SERVICES AND/OR SUPPLIES

Contractor shall provide the Department the following

CONTRACTOR agrees to provide necessary services to maintain the lift chair located at Riverside Recovery and Reentry Center.

2.1 Extent of Service (parts components repair, replacement, testing & alignment)

Furnish all materials and labor necessary to maintain the operation of one (1) chair lift. Maintenance shall include lubrication and adjustment to insure smooth and efficient operation of, but is not limited to machines, motors, generators, controllers, control and landing positioning systems, selectors, worms, gears, thrusts, drives, governors, sheaves, and ropes, bearings, power units, pumps, valves, jacks, all brake components, windings, commutators, rotating elements, contacts, coil resistances, relays, magnet frames, leveling devices, load-weighers, cams, car and hoistway door (or gate) hangers, tracks, guides, doors or operating devices, interlocks and contacts, doors or gates (except finish), push buttons, annunciators, cables including hoist and governor cables, governor equipment, electrical conductors, car guides and shoes (or guide rollers), safety devices (mechanisms) and indicator lights, signal and lamp fixtures, fans, gates, rail alignment, hoistway doors, door frames, platforms, and counterweights, sills, hoist way gates, power feeders and switches to insure maximum performance and safe operation.

2.2 Safety testing

Test equipment as outlined in federal, state, local safety codes to insure inspections will be passed.

- Perform governor, safety and load tests
- Perform pressure and equipment test
- Correct deficiencies and meet compliance requirements
- Adhere to new published safety rules/standards

Perform all required safety tests as indicated by the State of Montana, Elevator Safety Program. Completions of the required tests are to include prompt submission of test results to the State of Montana Elevator Program.

2.3 Rules

Rules make reference to the "American Society of Mechanical Engineers, ASME, A17.3-2002" and any supplements codes thereto, which have been adopted by the State of Montana by applying MCA title 50, chapter 60, part 7, ARM 24.301.602.

Vendors may request a copy from the Department of Labor and Industry, Building Codes Division, 301 South Park, Helena, MT 59620 or by phoning 406-841-2040.

2.4 Skilled Mechanics

It is the responsibility of the CONTRACTOR to provide skilled mechanics, directly employed and supervised by it, to perform all routine preventive maintenance as well as any emergency breakdown service.

All skilled mechanics employed for this contract must be thoroughly trained in the mechanical and electrical operation of elevator equipment. Particular effort must be made to familiarize these mechanics with the specific equipment needed for this contract.

2.5 Number of Hours/Routine Scheduled Maintenance

Contractor will provide routine scheduled maintenance for cleaning, adjusting and lubricating of equipment semi-annually. Repair, replacement and callback time are separate from scheduled maintenance time requirements.

- A. Contractor shall not charge for service requests for minor repairs/adjustments or emergency entrapments.
- B. After hour service requests, initiated by the Contractor, must be approved in advance by the facility, including all additional cost not covered under contract.

2.6 Maintenance Requirements

- A. The chair lift must be serviced semi-annually. This will be on a date mutually agreed upon between the Contractor and the facility.
- B. With proper tools and equipment, thoroughly check and make all necessary repairs and adjustments to each elevator to insure uninterrupted, safe, and comfortable service.
- C. In accordance with manufacturer's instructions, complete scheduled lubrication.
- D. Upon disclosure of major wear on any part, Contractor will notify Department and down time shall be scheduled during regular working hours for replacement to be made.
- E. Not less than once a year, preferably in **January**, the Contractor must make a thorough no-load safety test in the presence of a representative of Department, reporting in detail the work performed and results of the test and submit the test results to the State of Montana Elevator Program.
- F. All routine scheduled maintenance must be performed Monday through Friday between 8:00 am and 4:00 pm. (Except on holidays)

2.7 Check Charts (logs)

The Contractor will be required to maintain a check chart for the chair lift, listing all the parts requiring service and the intervals at which they are to be serviced.

This chart will be kept in a mutually agreed upon location supplied by Department and shall be turned over to Department upon completion of this contract. Every service call must be recorded on the appropriate chart, including routine maintenance and emergency repair calls, listing services performed and parts or equipment replaced.

2.8 Emergency Callbacks

Upon failure of the chair lift to properly operate between service calls, the Contractor must provide emergency callback service and restore operation. All expenses for this emergency service must be included in bid prices. Department shall assign one person responsible to contact the Contractor for all emergency callbacks. The mechanic must notify this person upon completion of emergency work.

The mechanics assigned to work on the chair lift must be capable of responding to emergency callbacks within three (3) hours (24 hours a day Monday through Friday). On Saturday and Sunday, response time shall be extended to four (4) hours.

2.9 Claims

It is expressly understood and agreed that no claim for extra work, labor or materials, not specifically herein provided, will be allowed by Department. Contractor will not do any work or furnish any materials not covered by this contract unless such work is ordered in writing by Department; and in no event shall CONTRACTORS incur any liability by reason of verbal directions or instruction by DEPARTMENT or its authorized agent.

2.10 Inspection

Contractor must maintain access to all phases of contract permitting inspection by Department or its representative. Department reserves the right to make such inspections and tests as and when deemed necessary to ascertain that the requirements of this agreement are being fulfilled.

2.11 Performance Requirements

Contractor must respond within 24 hours after notice of observed defects has been given and shall proceed to immediately remedy these defects at Contractor expense.

If a Contractor's services are not in conformance to the requirements of this contract, Department has the right to require immediate re-performance. All work rejected as unsatisfactory shall be subject to final inspection and acceptance.

Nothing herein stated shall obligate the Contractor to remedy defects caused by the owner's abuse of that work.

2.12 Supplies and Replacement Parts

If replacement parts/devices are not identical to original equipment or to the equipment manufacturer's recommendation, prior written approval from Department shall be obtained. Approval requests shall be made in writing, include the reasons for the proposed substitution, and provide a detailed technical description of the part or device.

- A. Normal supplies including lubricant and devices required for routine use shall be readily available.

3. WARRANTIES

3.1 Warranty of Products. Contractor warrants that the products supplied conform to the specifications requested, are fit and sufficient for the purpose manufactured, are of good material and

workmanship, and are free from defect. The length of warranty may vary by product. Contractor further warrants that the products are new and unused and of the latest model or manufacture, unless the Department specifies otherwise. Contractor acknowledges that exceptions will be rejected.

3.2 Warranty of Services. Contractor warrants that the services provided conform to the contract requirements, including all descriptions, specifications and attachments made a part of this contract. The Department's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this contract, at law, or in equity, the Department may, at Contractor's expense, require prompt correction of any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this contract in the manner and to the same extent as services originally furnished.

4. CONSIDERATION/PAYMENT

4.1 Payment Schedule. In consideration of the supplies or services to be provided, the Department shall pay Contractor according to the following schedule:

- A. Department shall pay Contractor \$79.00 per month, not to exceed nine hundred forty eight and 00/100 Dollars (**\$948.00**) per Fiscal Year for the services described herein.
- B. This rate is inclusive of all travel and per diem. Department will not compensate Contractor for travel or travel time, lodging, meals, supplies, or any other expense incurred by Contractor while performing services identified within this Contract.

4.2 Cost Increase by Mutual Agreement. After the contract's initial term and if the Department agrees to a renewal, the parties may agree upon a cost increase according to the cost sheet provided by the Contractor in Limited Solicitation COR-LimtSol-2017-0033 . Any cost increases must be based on demonstrated industry-wide or regional increases in Contractor's costs.

4.3 Payment Terms. Unless otherwise noted in the solicitation document, the Department has 30 days to pay invoices, as allowed by 17-8-242, MCA. Contractor shall provide banking information at the time of contract execution in order to facilitate the Department's electronic funds transfer payments.

4.4 Reference to Contract. The contract number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract. If the number is not provided, the Department is not obligated to pay the invoice.

5. AGENCY ASSISTANCE

To the extent possible, Contractor shall use its own equipment in providing the goods/services set forth in Section 3. However, the parties recognize that services provided to Department may occur within the confines of a secure correctional facility necessitating the use of Department facilities and equipment including, but not limited to, access to inmate records, work space within a correctional facility, and phone service (e.g., Montana State Prison does not allow cellular or digital phones within the facility).

6. PREVAILING WAGE REQUIREMENTS

6.1 Montana Resident Preference. The nature of the work performed, or services provided, under this contract meets the statutory definition of a "public works contract" in 18-2-401, MCA. Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction

services. Contractor shall abide by the requirements set out in 18-2-401 through 18-2-432, MCA, and all administrative rules adopted under these statutes.

The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

6.2 Standard Prevailing Rate of Wages. In addition, unless superseded by federal law, all employees working on a public works contract must be paid prevailing wage rates in accordance with 18-2-401 through 18-2-432, MCA, and all associated administrative rules. Montana law requires that all public works contracts, as defined in 18-2-401, MCA, in which the total cost of the contract is greater than \$25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

Because this contract has an initial term of 12 months with optional renewals, this contract is subject to the 3% adjustment when the contract length becomes more than 30 months. The 3% rate increase becomes effective upon the second renewal, and the 3% is paid starting in the third year of the contract beginning with the 25th month. The adjustment must be made and applied every 12 months for the term of the contract. This adjustment is the sole responsibility of Contractor and no cost adjustment in this contract will be allowed to fulfill this requirement.

6.3 Notice of Wages and Benefits. Furthermore, 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with 18-2-423, MCA.

6.4 Wage Rates, Pay Schedule, and Records. 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis. Each contractor, subcontractor, and employer shall maintain payroll records in a manner readily capable of being certified for submission under 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract. The Commissioner of the Montana Department of Labor and Industry has established the standard prevailing rate of wages in accordance with 18-2-401 and 18-2-402, MCA, for Elevator Repairers to be \$48.59 per hour, plus a benefit rate of \$34.08.

7. ACCESS AND RETENTION OF RECORDS

7.1 Access to Records. Contractor shall provide the Department, Legislative Auditor, or their authorized agent's access to any records necessary to determine contract compliance. The Department may terminate this contract under section 17, without incurring liability, for the Contractor's refusal to allow access as required by this section. (18-1-118, MCA.)

7.2 Retention Period. Contractor shall create and retain all records supporting the insert services rendered and supplies provided for a period of eight years after either the completion date of this contract or termination of the contract.

8. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

Contractor may not assign, transfer, or subcontract any portion of this contract without the Department's prior written consent. (18-4-141, MCA) Contractor is responsible to the Department for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the

acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and the Department under this contract.

9. HOLD HARMLESS/INDEMNIFICATION

Contractor agrees to protect, defend, indemnify, and hold harmless the Department, its elected and appointed officials, agents and employees from and against all legal, equitable or administrative claims, causes of action, damages, losses and expenses, of any kind or character, including but not limited to attorneys' fees and the costs of defense, arising in favor of Contractor's employees or third parties on account of bodily injury, sickness, disease, death, personal injury, violation of an offender's constitutional or statutory rights, or to injury to or destruction of tangible property except for such claims, causes of action, damages, losses or expenses which are solely due to the fault or negligence of the party seeking indemnity.

10. REQUIRED INSURANCE

10.1 General Requirements. Contractor shall maintain for the duration of this contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

10.2 Primary Insurance. Contractor's insurance coverage shall be primary insurance with respect to the Department, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the Department, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

10.3 Specific Requirements for Commercial General Liability. Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

The Department, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

10.4 Specific Requirements for Automobile Liability. Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

10.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the Department. At the request of the Department either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Department, its officers, officials, employees, or volunteers; or (2) at the expense of Contractor, Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

10.6 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620. Contractor must notify

the Department immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The Department reserves the right to require complete copies of insurance certificates at all times.

11. LICENSURE

Contractor agrees to provide copies of current licenses and certifications that register Contractor and any associates performing under this Contract.

12. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for the Department of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are Department employees. This insurance/exemption must be valid for the entire contract term and any renewal. Upon expiration, a renewal document must be sent to the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620.

13. COMPLIANCE WITH LAWS

Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. CONTRACTOR will comply with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.3.14, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. CONTRACTOR shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

The Affordable Care Act requires a contractor, if contractor is an applicable large employer under the ACA, to provide healthcare coverage for its employees who provide services for the State and work for 30 or more hours per week. This coverage must also cover the eligible employee's dependents under the age of 26. The coverage must (a) meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions under Section 4980H of the Code (ACA), and (b) otherwise satisfy the requirements of the Code § 4980 H (ACA) if provided by the State.

Additional Indemnification. Claims under this provision also include those arising out of or in any way connected with Contractor's breach of this contract, including any Claims asserting that any of Contractor's employees are actually employees or common law employees of the State or any of its agencies, including but not limited to, excise taxes or penalties imposed on the State under the Code §§ 4980H, 6055 or 6056.

Reporting Requirements. Contractor, if contractor is an applicable large employer under the ACA, further states that it shall satisfy all reporting requirements under the Code §§ 6055 and 6056 (ACA) with respect to

KONE, Inc.
Contract #17-007-YSD
Contracting Authority:

individuals who perform services for the State.

Auditing. The State may audit Contractor's operations to ensure that the Contractor has complied with the statements made above.

14. DISABILITY ACCOMMODATIONS

The Department does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

15. REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

16. CONTRACT TERMINATION

16.1 Termination for Cause with Notice to Cure Requirement. The Department may terminate this contract in whole or in part for Contractor's failure to materially perform any of the services, duties, terms, or conditions contained in this contract after giving Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

16.2 Termination for Cause with Notice to Cure Requirement. Contractor may terminate this contract for the Department's failure to perform any of its duties under this contract after giving the Department written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than **30 days**. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

16.3 Reduction of Funding. The Department must by law terminate this contract if funds are not appropriated or otherwise made available to support the Department's continuation of performance of this contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the Department budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the Department shall terminate this contract as required by law. The Department shall provide Contractor the date the Department's termination shall take effect. The Department shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the Department shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the Department's termination takes effect. This is Contractor's sole remedy. The Department shall not be liable to Contractor for any other

payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

17. EVENT OF BREACH – REMEDIES

17.1 Event of Breach by Contractor. Any one or more of the following Contractor acts or omissions constitute an event of material breach under this contract:

- products or services furnished fail to conform to any requirement;
- failure to submit any report required by this contract;
- failure to perform any of the other terms and conditions of this contract, including but not limited to beginning work under this contract without prior Department approval; or
- voluntary or involuntary bankruptcy or receivership.

17.2 Event of Breach by Department. The Department's failure to perform any material terms or conditions of this contract constitutes an event of breach.

17.3 Actions in Event of Breach.

Upon Contractor's material breach, the Department may:

- terminate this contract under Section 17.1 and pursue any of its remedies under this contract, at law, or in equity; or
- treat this contract as materially breached and pursue any of its remedies under this contract, at law, or in equity.

Upon the Department's material breach, Contractor may:

- terminate this contract under Section 17.2 and pursue any of its remedies under this contract, at law, or in equity; or
- treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

18. FORCE MAJEURE

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this contract, unless the parties mutually agree that the obligation is excused because of the condition.

19. WAIVER OF BREACH

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

20. CONFORMANCE WITH CONTRACT

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the Department's Contracts Management Bureau's prior written consent. Product or services provided that do not conform to the contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

21. LIAISONS AND SERVICE OF NOTICES

21.1 Contract Liaisons. All project management and coordination on the Department's behalf must be through a single point of contact designated as the Department's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this contract must be coordinated between the Department's liaison and Contractor's liaison.

Dan Kissner is the Department's liaison.
2 Riverside Road
Boulder, MT 59632
Telephone: (406)-225-4502
E-mail: dkissner@mt.gov

Blain Bermingham is Contractor's liaison.
3110 E. Lyndale Ave
Helena, MT 59601
Telephone: (406)-449-1399

21.2 Notifications. The Department's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail, or facsimile. If notice is provided by personal service or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective within three business days of mailing. A signed and dated acknowledgement of the notice is required of both parties.

22. MEETINGS

22.1 Technical or Contractual Problems. Contractor shall meet with the Department's personnel, or designated representatives, to resolve technical or contractual problems occurring during the contract term or to discuss the progress made by Contractor and the Department in the performance of their respective obligations, at no additional cost to the Department. The Department may request the meetings as problems arise and will be coordinated by the Department. The Department shall provide Contractor a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the contract.

22.2 Failure to Notify. If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by the Department, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.

22.3 Department's Failure or Delay. For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of the Department's failure or delay in discharging any Department obligation, the Department shall review same and determine if such problem or circumstance was

in fact the result of such failure or delay. If the Department agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby, and provide for any additional charges by Contractor. This is Contractor's sole remedy. If the Department does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

23. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, if the contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this contract or particular work under this contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the Department or its designees. The parties agree that such transition assistance is governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The Department shall pay Contractor for any resources utilized in performing such transition assistance at the most current contract rates. If the Department terminates a project or this contract for cause, then the Department may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages the Department may have sustained as a result of Contractor's breach.

24. CHOICE OF LAW AND VENUE

Montana law governs this contract. The parties agree that any litigation concerning this bid, proposal, or this contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

25. TAX EXEMPTION

The Department of Montana is exempt from Federal Excise Taxes (#81-0302402).

26. AUTHORITY

This contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

27. SEVERABILITY CLAUSE

A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

28. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

28.1 Contract. This contract consists of 12 numbered pages and any Attachments as required. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

28.2 Entire Agreement. These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by the parties.

29. WAIVER

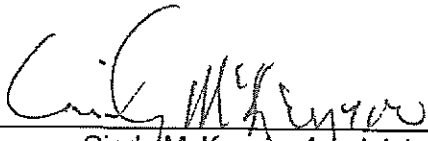
The Department's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

30. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

DEPARTMENT OF MONTANA
Montana Department of Corrections
5 S. Last Chance Gulch
Helena, MT 59601

KONE, Inc.
3110 E. Lyndale Ave
Helena, MT 59601



Cindy McKenzie, Administrator
Youth Services Division

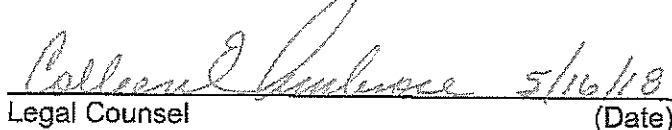


Jeff Blum, Sr. Vice President
KONE, Inc.

DATE: 5-17-18

DATE: 6-20-18

Approved as to Legal Content:


Legal Counsel (Date)

Lift Chair Maintenance Riverside
(17-007-YSD)

THIS CONTRACT is entered into by and between the State of Montana, **Montana Department of Corrections** (Department), whose address and phone number are **5 S. Last Chance Gulch, Helena, MT 59601, (406) 444-3930** and **KONE, Inc.**, (Contractor), whose address and phone number are 3110 E. Lyndale Ave. and (406)-449-1399.

1. EFFECTIVE DATE, DURATION, AND RENEWAL

1.1 Contract Term. The contract's initial term is upon contract execution through **July 31, 2018**, unless terminated earlier as provided in this contract. In no event is this contract binding on the Department unless the Department's authorized representative has signed it. The legal counsel signature approving legal content of the contract does not constitute an authorized signature.

1.2 Contract Renewal. The Department may renew this contract under its then-existing terms and conditions (subject to potential cost adjustments described below in section 2) in one-year intervals, or any interval that is advantageous to the Department. This contract, including any renewals, may not exceed a total of seven (7) years.

2. SERVICES AND/OR SUPPLIES

Contractor shall provide the Department the following

CONTRACTOR agrees to provide necessary services to maintain the lift chair located at Riverside Recovery and Reentry Center.

2.1 Extent of Service (parts components repair, replacement, testing & alignment)

Furnish all materials and labor necessary to maintain the operation of one (1) chair lift. Maintenance shall include lubrication and adjustment to insure smooth and efficient operation of, but is not limited to machines, motors, generators, controllers, control and landing positioning systems, selectors, worms, gears, thrusts, drives, governors, sheaves, and ropes, bearings, power units, pumps, valves, jacks, all brake components, windings, commutators, rotating elements, contacts, coil resistances, relays, magnet frames, leveling devices, load-weighers, cams, car and hoistway door (or gate) hangers, tracks, guides, doors or operating devices, interlocks and contacts, doors or gates (except finish), push buttons, annunciators, cables including hoist and governor cables, governor equipment, electrical conductors, car guides and shoes (or guide rollers), safety devices (mechanisms) and indicator lights, signal and lamp fixtures, fans, gates, rail alignment, hoistway doors, door frames, platforms, and counterweights, sills, hoist way gates, power feeders and switches to insure maximum performance and safe operation.

2.2 Safety testing

Test equipment as outlined in federal, state, local safety codes to insure inspections will be passed.

- Perform governor, safety and load tests
- Perform pressure and equipment test
- Correct deficiencies and meet compliance requirements
- Adhere to new published safety rules/standards

Perform all required safety tests as indicated by the State of Montana, Elevator Safety Program. Completions of the required tests are to include prompt submission of test results to the State of Montana Elevator Program.

2.3 Rules

Rules make reference to the "American Society of Mechanical Engineers, ASME, A17.3-2002" and any supplements codes thereto, which have been adopted by the State of Montana by applying MCA title 50, chapter 60, part 7, ARM 24.301.602.

Vendors may request a copy from the Department of Labor and Industry, Building Codes Division, 301 South Park, Helena, MT 59620 or by phoning 406-841-2040.

2.4 Skilled Mechanics

It is the responsibility of the CONTRACTOR to provide skilled mechanics, directly employed and supervised by it, to perform all routine preventive maintenance as well as any emergency breakdown service.

All skilled mechanics employed for this contract must be thoroughly trained in the mechanical and electrical operation of elevator equipment. Particular effort must be made to familiarize these mechanics with the specific equipment needed for this contract.

2.5 Number of Hours/Routine Scheduled Maintenance

Contractor will provide routine scheduled maintenance for cleaning, adjusting and lubricating of equipment semi-annually. Repair, replacement and callback time are separate from scheduled maintenance time requirements.

- A. Contractor shall not charge for service requests for minor repairs/adjustments or emergency entrapments.
- B. After hour service requests, initiated by the Contractor, must be approved in advance by the facility, including all additional cost not covered under contract.

2.6 Maintenance Requirements

- A. The chair lift must be serviced semi-annually. This will be on a date mutually agreed upon between the Contractor and the facility.
- B. With proper tools and equipment, thoroughly check and make all necessary repairs and adjustments to each elevator to insure uninterrupted, safe, and comfortable service.
- C. In accordance with manufacturer's instructions, complete scheduled lubrication.
- D. Upon disclosure of major wear on any part, Contractor will notify Department and down time shall be scheduled during regular working hours for replacement to be made.
- E. Not less than once a year, preferably in **January**, the Contractor must make a thorough no-load safety test in the presence of a representative of Department, reporting in detail the work performed and results of the test and submit the test results to the State of Montana Elevator Program.
- F. All routine scheduled maintenance must be performed Monday through Friday between 8:00 am and 4:00 pm. (Except on holidays)

2.7 Check Charts (logs)

The Contractor will be required to maintain a check chart for the chair lift, listing all the parts requiring service and the intervals at which they are to be serviced.

This chart will be kept in a mutually agreed upon location supplied by Department and shall be turned over to Department upon completion of this contract. Every service call must be recorded on the appropriate chart, including routine maintenance and emergency repair calls, listing services performed and parts or equipment replaced.

2.8 Emergency Callbacks

Upon failure of the chair lift to properly operate between service calls, the Contractor must provide emergency callback service and restore operation. All expenses for this emergency service must be included in bid prices. Department shall assign one person responsible to contact the Contractor for all emergency callbacks. The mechanic must notify this person upon completion of emergency work.

The mechanics assigned to work on the chair lift must be capable of responding to emergency callbacks within three (3) hours (24 hours a day Monday through Friday). On Saturday and Sunday, response time shall be extended to four (4) hours.

2.9 Claims

It is expressly understood and agreed that no claim for extra work, labor or materials, not specifically herein provided, will be allowed by Department. Contractor will not do any work or furnish any materials not covered by this contract unless such work is ordered in writing by Department; and in no event shall CONTRACTORS incur any liability by reason of verbal directions or instruction by DEPARTMENT or its authorized agent.

2.10 Inspection

Contractor must maintain access to all phases of contract permitting inspection by Department or its representative. Department reserves the right to make such inspections and tests as and when deemed necessary to ascertain that the requirements of this agreement are being fulfilled.

2.11 Performance Requirements

Contractor must respond within 24 hours after notice of observed defects has been given and shall proceed to immediately remedy these defects at Contractor expense.

If a Contractor's services are not in conformance to the requirements of this contract, Department has the right to require immediate re-performance. All work rejected as unsatisfactory shall be subject to final inspection and acceptance.

Nothing herein stated shall obligate the Contractor to remedy defects caused by the owner's abuse of that work.

2.12 Supplies and Replacement Parts

If replacement parts/devices are not identical to original equipment or to the equipment manufacturer's recommendation, prior written approval from Department shall be obtained. Approval requests shall be made in writing, include the reasons for the proposed substitution, and provide a detailed technical description of the part or device.

- A. Normal supplies including lubricant and devices required for routine use shall be readily available.

3. WARRANTIES

3.1 Warranty of Products. Contractor warrants that the products supplied conform to the specifications requested, are fit and sufficient for the purpose manufactured, are of good material and

KONE, Inc.
Contract #17-007-YSD
Contracting Authority:

workmanship, and are free from defect. The length of warranty may vary by product. Contractor further warrants that the products are new and unused and of the latest model or manufacture, unless the Department specifies otherwise. Contractor acknowledges that exceptions will be rejected.

3.2 Warranty of Services. Contractor warrants that the services provided conform to the contract requirements, including all descriptions, specifications and attachments made a part of this contract. The Department's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this contract, at law, or in equity, the Department may, at Contractor's expense, require prompt correction of any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this contract in the manner and to the same extent as services originally furnished.

4. CONSIDERATION/PAYMENT

4.1 Payment Schedule. In consideration of the supplies or services to be provided, the Department shall pay Contractor according to the following schedule:

- A. Department shall pay Contractor \$79.00 per month, not to exceed nine hundred forty eight and 00/100 Dollars (**\$948.00**) per Fiscal Year for the services described herein.
- B. This rate is inclusive of all travel and per diem. Department will not compensate Contractor for travel or travel time, lodging, meals, supplies, or any other expense incurred by Contractor while performing services identified within this Contract.

4.2 Cost Increase by Mutual Agreement. After the contract's initial term and if the Department agrees to a renewal, the parties may agree upon a cost increase according to the cost sheet provided by the Contractor in Limited Solicitation COR-LimtSol-2017-0033 . Any cost increases must be based on demonstrated industry-wide or regional increases in Contractor's costs.

4.3 Payment Terms. Unless otherwise noted in the solicitation document, the Department has 30 days to pay invoices, as allowed by 17-8-242, MCA. Contractor shall provide banking information at the time of contract execution in order to facilitate the Department's electronic funds transfer payments.

4.4 Reference to Contract. The contract number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract. If the number is not provided, the Department is not obligated to pay the invoice.

5. AGENCY ASSISTANCE

To the extent possible, Contractor shall use its own equipment in providing the goods/services set forth in Section 3. However, the parties recognize that services provided to Department may occur within the confines of a secure correctional facility necessitating the use of Department facilities and equipment including, but not limited to, access to inmate records, work space within a correctional facility, and phone service (e.g., Montana State Prison does not allow cellular or digital phones within the facility).

6. PREVAILING WAGE REQUIREMENTS

6.1 Montana Resident Preference. The nature of the work performed, or services provided, under this contract meets the statutory definition of a "public works contract" in 18-2-401, MCA. Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction

services. Contractor shall abide by the requirements set out in 18-2-401 through 18-2-432, MCA, and all administrative rules adopted under these statutes.

The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

6.2 Standard Prevailing Rate of Wages. In addition, unless superseded by federal law, all employees working on a public works contract must be paid prevailing wage rates in accordance with 18-2-401 through 18-2-432, MCA, and all associated administrative rules. Montana law requires that all public works contracts, as defined in 18-2-401, MCA, in which the total cost of the contract is greater than \$25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

Because this contract has an initial term of 12 months with optional renewals, this contract is subject to the 3% adjustment when the contract length becomes more than 30 months. The 3% rate increase becomes effective upon the second renewal, and the 3% is paid starting in the third year of the contract beginning with the 25th month. The adjustment must be made and applied every 12 months for the term of the contract. This adjustment is the sole responsibility of Contractor and no cost adjustment in this contract will be allowed to fulfill this requirement.

6.3 Notice of Wages and Benefits. Furthermore, 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with 18-2-423, MCA.

6.4 Wage Rates, Pay Schedule, and Records. 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis. Each contractor, subcontractor, and employer shall maintain payroll records in a manner readily capable of being certified for submission under 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract. The Commissioner of the Montana Department of Labor and Industry has established the standard prevailing rate of wages in accordance with 18-2-401 and 18-2-402, MCA, for Elevator Repairers to be \$48.59 per hour, plus a benefit rate of \$34.08.

7. ACCESS AND RETENTION OF RECORDS

7.1 Access to Records. Contractor shall provide the Department, Legislative Auditor, or their authorized agent's access to any records necessary to determine contract compliance. The Department may terminate this contract under section 17, without incurring liability, for the Contractor's refusal to allow access as required by this section. (18-1-118, MCA.)

7.2 Retention Period. Contractor shall create and retain all records supporting the insert services rendered and supplies provided for a period of eight years after either the completion date of this contract or termination of the contract.

8. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

Contractor may not assign, transfer, or subcontract any portion of this contract without the Department's prior written consent. (18-4-141, MCA) Contractor is responsible to the Department for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the

acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and the Department under this contract.

9. HOLD HARMLESS/INDEMNIFICATION

Contractor agrees to protect, defend, indemnify, and hold harmless the Department, its elected and appointed officials, agents and employees from and against all legal, equitable or administrative claims, causes of action, damages, losses and expenses, of any kind or character, including but not limited to attorneys' fees and the costs of defense, arising in favor of Contractor's employees or third parties on account of bodily injury, sickness, disease, death, personal injury, violation of an offender's constitutional or statutory rights, or to injury to or destruction of tangible property except for such claims, causes of action, damages, losses or expenses which are solely due to the fault or negligence of the party seeking indemnity.

10. REQUIRED INSURANCE

10.1 General Requirements. Contractor shall maintain for the duration of this contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

10.2 Primary Insurance. Contractor's insurance coverage shall be primary insurance with respect to the Department, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the Department, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

10.3 Specific Requirements for Commercial General Liability. Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

The Department, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

10.4 Specific Requirements for Automobile Liability. Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

10.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the Department. At the request of the Department either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Department, its officers, officials, employees, or volunteers; or (2) at the expense of Contractor, Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

10.6 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620. Contractor must notify

the Department immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The Department reserves the right to require complete copies of insurance certificates at all times.

11. LICENSURE

Contractor agrees to provide copies of current licenses and certifications that register Contractor and any associates performing under this Contract.

12. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for the Department of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are Department employees. This insurance/exemption must be valid for the entire contract term and any renewal. Upon expiration, a renewal document must be sent to the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620.

13. COMPLIANCE WITH LAWS

Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. CONTRACTOR will comply with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.3.14, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. CONTRACTOR shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

The Affordable Care Act requires a contractor, if contractor is an applicable large employer under the ACA, to provide healthcare coverage for its employees who provide services for the State and work for 30 or more hours per week. This coverage must also cover the eligible employee's dependents under the age of 26. The coverage must (a) meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions under Section 4980H of the Code (ACA), and (b) otherwise satisfy the requirements of the Code § 4980 H (ACA) if provided by the State.

Additional Indemnification. Claims under this provision also include those arising out of or in any way connected with Contractor's breach of this contract, including any Claims asserting that any of Contractor's employees are actually employees or common law employees of the State or any of its agencies, including but not limited to, excise taxes or penalties imposed on the State under the Code §§ 4980H, 6055 or 6056.

Reporting Requirements. Contractor, if contractor is an applicable large employer under the ACA, further states that it shall satisfy all reporting requirements under the Code §§ 6055 and 6056 (ACA) with respect to

KONE, Inc.
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individuals who perform services for the State.

Auditing. The State may audit Contractor's operations to ensure that the Contractor has complied with the statements made above.

14. DISABILITY ACCOMMODATIONS

The Department does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

15. REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

16. CONTRACT TERMINATION

16.1 Termination for Cause with Notice to Cure Requirement. The Department may terminate this contract in whole or in part for Contractor's failure to materially perform any of the services, duties, terms, or conditions contained in this contract after giving Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

16.2 Termination for Cause with Notice to Cure Requirement. Contractor may terminate this contract for the Department's failure to perform any of its duties under this contract after giving the Department written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than **30 days**. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

16.3 Reduction of Funding. The Department must by law terminate this contract if funds are not appropriated or otherwise made available to support the Department's continuation of performance of this contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the Department budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the Department shall terminate this contract as required by law. The Department shall provide Contractor the date the Department's termination shall take effect. The Department shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the Department shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the Department's termination takes effect. This is Contractor's sole remedy. The Department shall not be liable to Contractor for any other

payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

17. EVENT OF BREACH – REMEDIES

17.1 Event of Breach by Contractor. Any one or more of the following Contractor acts or omissions constitute an event of material breach under this contract:

- products or services furnished fail to conform to any requirement;
- failure to submit any report required by this contract;
- failure to perform any of the other terms and conditions of this contract, including but not limited to beginning work under this contract without prior Department approval; or
- voluntary or involuntary bankruptcy or receivership.

17.2 Event of Breach by Department. The Department's failure to perform any material terms or conditions of this contract constitutes an event of breach.

17.3 Actions in Event of Breach.

Upon Contractor's material breach, the Department may:

- terminate this contract under Section 17.1 and pursue any of its remedies under this contract, at law, or in equity; or
- treat this contract as materially breached and pursue any of its remedies under this contract, at law, or in equity.

Upon the Department's material breach, Contractor may:

- terminate this contract under Section 17.2 and pursue any of its remedies under this contract, at law, or in equity; or
- treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

18. FORCE MAJEURE

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this contract, unless the parties mutually agree that the obligation is excused because of the condition.

19. WAIVER OF BREACH

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

20. CONFORMANCE WITH CONTRACT

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the Department's Contracts Management Bureau's prior written consent. Product or services provided that do not conform to the contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

21. LIAISONS AND SERVICE OF NOTICES

21.1 Contract Liaisons. All project management and coordination on the Department's behalf must be through a single point of contact designated as the Department's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this contract must be coordinated between the Department's liaison and Contractor's liaison.

Dan Kissner is the Department's liaison.
2 Riverside Road
Boulder, MT 59632
Telephone: (406)-225-4502
E-mail: dkissner@mt.gov

Blain Bermingham is Contractor's liaison.
3110 E. Lyndale Ave
Helena, MT 59601
Telephone: (406)-449-1399

21.2 Notifications. The Department's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail, or facsimile. If notice is provided by personal service or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective within three business days of mailing. A signed and dated acknowledgement of the notice is required of both parties.

22. MEETINGS

22.1 Technical or Contractual Problems. Contractor shall meet with the Department's personnel, or designated representatives, to resolve technical or contractual problems occurring during the contract term or to discuss the progress made by Contractor and the Department in the performance of their respective obligations, at no additional cost to the Department. The Department may request the meetings as problems arise and will be coordinated by the Department. The Department shall provide Contractor a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the contract.

22.2 Failure to Notify. If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by the Department, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.

22.3 Department's Failure or Delay. For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of the Department's failure or delay in discharging any Department obligation, the Department shall review same and determine if such problem or circumstance was

in fact the result of such failure or delay. If the Department agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby, and provide for any additional charges by Contractor. This is Contractor's sole remedy. If the Department does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

23. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, if the contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this contract or particular work under this contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the Department or its designees. The parties agree that such transition assistance is governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The Department shall pay Contractor for any resources utilized in performing such transition assistance at the most current contract rates. If the Department terminates a project or this contract for cause, then the Department may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages the Department may have sustained as a result of Contractor's breach.

24. CHOICE OF LAW AND VENUE

Montana law governs this contract. The parties agree that any litigation concerning this bid, proposal, or this contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

25. TAX EXEMPTION

The Department of Montana is exempt from Federal Excise Taxes (#81-0302402).

26. AUTHORITY

This contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

27. SEVERABILITY CLAUSE

A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

28. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

28.1 Contract. This contract consists of 12 numbered pages and any Attachments as required. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

28.2 Entire Agreement. These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by the parties.

29. WAIVER

The Department's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

30. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

**DEPARTMENT OF MONTANA
Montana Department of Corrections
5 S. Last Chance Gulch
Helena, MT 59601**

**KONE, Inc.
3110 E. Lyndale Ave
Helena, MT 59601**



Cindy McKenzie, Administrator
Youth Services Division

DATE: 7-28-17



Jeff Blum, Sr. Vice President
KONE Inc.

DATE: 9-11-2017

Approved as to Legal Content:

 7/28/17
Legal Counsel (Date)

Lift Chair Maintenance Riverside
(17-007-YSD)

THIS CONTRACT is entered into by and between the State of Montana, **Montana Department of Corrections** (Department), whose address and phone number are **5 S. Last Chance Gulch, Helena, MT 59601, (406) 444-3930** and **KONE, Inc.**, (Contractor), whose address and phone number are 3110 E. Lyndale Ave. and (406)-586-9081.

1. EFFECTIVE DATE, DURATION, AND RENEWAL

1.1 Contract Term. The contract's initial term is upon contract execution through **July 31, 2017**, unless terminated earlier as provided in this contract. In no event is this contract binding on the Department unless the Department's authorized representative has signed it. The legal counsel signature approving legal content of the contract does not constitute an authorized signature.

1.2 Contract Renewal. The Department may renew this contract under its then-existing terms and conditions (subject to potential cost adjustments described below in section 2) in one-year intervals, or any interval that is advantageous to the Department. This contract, including any renewals, may not exceed a total of seven (7) years.

2. SERVICES AND/OR SUPPLIES

Contractor shall provide the Department the following

CONTRACTOR agrees to provide necessary services to maintain the lift chair located at Riverside Recovery and Reentry Center.

2.1 Extent of Service (parts components repair, replacement, testing & alignment)

Furnish all materials and labor necessary to maintain the operation of one (1) chair lift. Maintenance shall include lubrication and adjustment to insure smooth and efficient operation of, but is not limited to machines, motors, generators, controllers, control and landing positioning systems, selectors, worms, gears, thrusts, drives, governors, sheaves, and ropes, bearings, power units, pumps, valves, jacks, all brake components, windings, commutators, rotating elements, contacts, coil resistances, relays, magnet frames, leveling devices, load-weighers, cams, car and hoistway door (or gate) hangers, tracks, guides, doors or operating devices, interlocks and contacts, doors or gates (except finish), push buttons, annunciators, cables including hoist and governor cables, governor equipment, electrical conductors, car guides and shoes (or guide rollers), safety devices (mechanisms) and indicator lights, signal and lamp fixtures, fans, gates, rail alignment, hoistway doors, door frames, platforms, and counterweights, sills, hoist way gates, power feeders and switches to insure maximum performance and safe operation.

2.2 Safety testing

Test equipment as outlined in federal, state, local safety codes to insure inspections will be passed.

- Perform governor, safety and load tests
- Perform pressure and equipment test
- Correct deficiencies and meet compliance requirements
- Adhere to new published safety rules/standards

Perform all required safety tests as indicated by the State of Montana, Elevator Safety Program. Completions of the required tests are to include prompt submission of test results to the State of Montana Elevator Program.

2.3 Rules

Rules make reference to the "American Society of Mechanical Engineers, ASME, A17.3-2002" and any supplements codes thereto, which have been adopted by the State of Montana by applying MCA title 50, chapter 60, part 7, ARM 24.301.602.

Vendors may request a copy from the Department of Labor and Industry, Building Codes Division, 301 South Park, Helena, MT 59620 or by phoning 406-841-2040.

2.4 Skilled Mechanics

It is the responsibility of the CONTRACTOR to provide skilled mechanics, directly employed and supervised by it, to perform all routine preventive maintenance as well as any emergency breakdown service.

All skilled mechanics employed for this contract must be thoroughly trained in the mechanical and electrical operation of elevator equipment. Particular effort must be made to familiarize these mechanics with the specific equipment needed for this contract.

2.5 Number of Hours/Routine Scheduled Maintenance

Contractor will provide routine scheduled maintenance for cleaning, adjusting and lubricating of equipment semi-annually. Repair, replacement and callback time are separate from scheduled maintenance time requirements.

- A. Contractor shall not charge for service requests for minor repairs/adjustments or emergency entrapments.
- B. After hour service requests, initiated by the Contractor, must be approved in advance by the facility, including all additional cost not covered under contract.

2.6 Maintenance Requirements

- A. The chair lift must be serviced semi-annually. This will be on a date mutually agreed upon between the Contractor and the facility.
- B. With proper tools and equipment, thoroughly check and make all necessary repairs and adjustments to each elevator to insure uninterrupted, safe, and comfortable service.
- C. In accordance with manufacturer's instructions, complete scheduled lubrication.
- D. Upon disclosure of major wear on any part, Contractor will notify Department and down time shall be scheduled during regular working hours for replacement to be made.
- E. Not less than once a year, preferably in **January**, the Contractor must make a thorough no-load safety test in the presence of a representative of Department, reporting in detail the work performed and results of the test and submit the test results to the State of Montana Elevator Program.
- F. All routine scheduled maintenance must be performed Monday through Friday between 8:00 am and 4:00 pm. (Except on holidays)

2.7 Check Charts (logs)

The Contractor will be required to maintain a check chart for the chair lift, listing all the parts requiring service and the intervals at which they are to be serviced.

This chart will be kept in a mutually agreed upon location supplied by Department and shall be turned over to Department upon completion of this contract. Every service call must be recorded on the appropriate chart, including routine maintenance and emergency repair calls, listing services performed and parts or equipment replaced.

2.8 Emergency Callbacks

Upon failure of the chair lift to properly operate between service calls, the Contractor must provide emergency callback service and restore operation. All expenses for this emergency service must be included in bid prices. Department shall assign one person responsible to contact the Contractor for all emergency callbacks. The mechanic must notify this person upon completion of emergency work.

The mechanics assigned to work on the chair lift must be capable of responding to emergency callbacks within three (3) hours (24 hours a day Monday through Friday). On Saturday and Sunday, response time shall be extended to four (4) hours.

2.9 Claims

It is expressly understood and agreed that no claim for extra work, labor or materials, not specifically herein provided, will be allowed by Department. Contractor will not do any work or furnish any materials not covered by this contract unless such work is ordered in writing by Department; and in no event shall CONTRACTORS incur any liability by reason of verbal directions or instruction by DEPARTMENT or its authorized agent.

2.10 Inspection

Contractor must maintain access to all phases of contract permitting inspection by Department or its representative. Department reserves the right to make such inspections and tests as and when deemed necessary to ascertain that the requirements of this agreement are being fulfilled.

2.11 Performance Requirements

Contractor must respond within 24 hours after notice of observed defects has been given and shall proceed to immediately remedy these defects at Contractor expense.

If a Contractor's services are not in conformance to the requirements of this contract, Department has the right to require immediate re-performance. All work rejected as unsatisfactory shall be subject to final inspection and acceptance.

Nothing herein stated shall obligate the Contractor to remedy defects caused by the owner's abuse of that work.

2.12 Supplies and Replacement Parts

If replacement parts/devices are not identical to original equipment or to the equipment manufacturer's recommendation, prior written approval from Department shall be obtained. Approval requests shall be made in writing, include the reasons for the proposed substitution, and provide a detailed technical description of the part or device.

- A. Normal supplies including lubricant and devices required for routine use shall be readily available.

3. WARRANTIES

3.1 Warranty of Products. Contractor warrants that the products supplied conform to the specifications requested, are fit and sufficient for the purpose manufactured, are of good material and

workmanship, and are free from defect. The length of warranty may vary by product. Contractor further warrants that the products are new and unused and of the latest model or manufacture, unless the Department specifies otherwise. Contractor acknowledges that exceptions will be rejected.

3.2 Warranty of Services. Contractor warrants that the services provided conform to the contract requirements, including all descriptions, specifications and attachments made a part of this contract. The Department's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this contract, at law, or in equity, the Department may, at Contractor's expense, require prompt correction of any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this contract in the manner and to the same extent as services originally furnished.

4. CONSIDERATION/PAYMENT

4.1 Payment Schedule. In consideration of the supplies or services to be provided, the Department shall pay Contractor according to the following schedule:

- A. Department shall pay Contractor \$79.00 per month, not to exceed nine hundred forty eight and 00/100 Dollars (**\$948.00**) per Fiscal Year for the services described herein.
- B. This rate is inclusive of all travel and per diem. Department will not compensate Contractor for travel or travel time, lodging, meals, supplies, or any other expense incurred by Contractor while performing services identified within this Contract.

4.2 Cost Increase by Mutual Agreement. After the contract's initial term and if the Department agrees to a renewal, the parties may agree upon a cost increase according to the cost sheet provided by the Contractor in Limited Solicitation COR-LimtSol-2017-0033 . Any cost increases must be based on demonstrated industry-wide or regional increases in Contractor's costs.

4.3 Payment Terms. Unless otherwise noted in the solicitation document, the Department has 30 days to pay invoices, as allowed by 17-8-242, MCA. Contractor shall provide banking information at the time of contract execution in order to facilitate the Department's electronic funds transfer payments.

4.4 Reference to Contract. The contract number **MUST** appear on all invoices, packing lists, packages, and correspondence pertaining to the contract. If the number is not provided, the Department is not obligated to pay the invoice.

5. AGENCY ASSISTANCE

To the extent possible, Contractor shall use its own equipment in providing the goods/services set forth in Section 3. However, the parties recognize that services provided to Department may occur within the confines of a secure correctional facility necessitating the use of Department facilities and equipment including, but not limited to, access to inmate records, work space within a correctional facility, and phone service (e.g., Montana State Prison does not allow cellular or digital phones within the facility).

6. PREVAILING WAGE REQUIREMENTS

6.1 Montana Resident Preference. The nature of the work performed, or services provided, under this contract meets the statutory definition of a "public works contract" in 18-2-401, MCA. Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction

services. Contractor shall abide by the requirements set out in 18-2-401 through 18-2-432, MCA, and all administrative rules adopted under these statutes.

The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

6.2 Standard Prevailing Rate of Wages. In addition, unless superseded by federal law, all employees working on a public works contract must be paid prevailing wage rates in accordance with 18-2-401 through 18-2-432, MCA, and all associated administrative rules. Montana law requires that all public works contracts, as defined in 18-2-401, MCA, in which the total cost of the contract is greater than \$25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

Because this contract has an initial term of 12 months with optional renewals, this contract is subject to the 3% adjustment when the contract length becomes more than 30 months. The 3% rate increase becomes effective upon the second renewal, and the 3% is paid starting in the third year of the contract beginning with the 25th month. The adjustment must be made and applied every 12 months for the term of the contract. This adjustment is the sole responsibility of Contractor and no cost adjustment in this contract will be allowed to fulfill this requirement.

6.3 Notice of Wages and Benefits. Furthermore, 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with 18-2-423, MCA.

6.4 Wage Rates, Pay Schedule, and Records. 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis. Each contractor, subcontractor, and employer shall maintain payroll records in a manner readily capable of being certified for submission under 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract. The Commissioner of the Montana Department of Labor and Industry has established the standard prevailing rate of wages in accordance with 18-2-401 and 18-2-402, MCA, for Elevator Repairers to be \$48.59 per hour, plus a benefit rate of \$34.08.

7. ACCESS AND RETENTION OF RECORDS

7.1 Access to Records. Contractor shall provide the Department, Legislative Auditor, or their authorized agent's access to any records necessary to determine contract compliance. The Department may terminate this contract under section 17, without incurring liability, for the Contractor's refusal to allow access as required by this section. (18-1-118, MCA.)

7.2 Retention Period. Contractor shall create and retain all records supporting the insert services rendered and supplies provided for a period of eight years after either the completion date of this contract or termination of the contract.

8. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

Contractor may not assign, transfer, or subcontract any portion of this contract without the Department's prior written consent. (18-4-141, MCA) Contractor is responsible to the Department for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the

acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and the Department under this contract.

9. HOLD HARMLESS/INDEMNIFICATION

Contractor agrees to protect, defend, indemnify, and hold harmless the Department, its elected and appointed officials, agents and employees from and against all legal, equitable or administrative claims, causes of action, damages, losses and expenses, of any kind or character, including but not limited to attorneys' fees and the costs of defense, arising in favor of Contractor's employees or third parties on account of bodily injury, sickness, disease, death, personal injury, violation of an offender's constitutional or statutory rights, or to injury to or destruction of tangible property except for such claims, causes of action, damages, losses or expenses which are solely due to the fault or negligence of the party seeking indemnity.

10. REQUIRED INSURANCE

10.1 General Requirements. Contractor shall maintain for the duration of this contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

10.2 Primary Insurance. Contractor's insurance coverage shall be primary insurance with respect to the Department, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the Department, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

10.3 Specific Requirements for Commercial General Liability. Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

The Department, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

10.4 Specific Requirements for Automobile Liability. Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

10.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the Department. At the request of the Department either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Department, its officers, officials, employees, or volunteers; or (2) at the expense of Contractor, Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

10.6 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620. Contractor must notify

the Department immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The Department reserves the right to require complete copies of insurance policies at all times.

11. LICENSURE

Contractor agrees to provide copies of current licenses and certifications that register Contractor and any associates performing under this Contract.

12. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for the Department of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are Department employees. This insurance/exemption must be valid for the entire contract term and any renewal. Upon expiration, a renewal document must be sent to the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620.

13. COMPLIANCE WITH LAWS

Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. CONTRACTOR will comply with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.3.14, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. CONTRACTOR shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

The Affordable Care Act requires a contractor, if contractor is an applicable large employer under the ACA, to provide healthcare coverage for its employees who provide services for the State and work for 30 or more hours per week. This coverage must also cover the eligible employee's dependents under the age of 26. The coverage must (a) meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions under Section 4980H of the Code (ACA), and (b) otherwise satisfy the requirements of the Code § 4980 H (ACA) if provided by the State.

Additional Indemnification. Claims under this provision also include those arising out of or in any way connected with Contractor's breach of this contract, including any Claims asserting that any of Contractor's employees are actually employees or common law employees of the State or any of its agencies, including but not limited to, excise taxes or penalties imposed on the State under the Code §§ 4980H, 6055 or 6056.

Reporting Requirements. Contractor, if contractor is an applicable large employer under the ACA, further states that it shall satisfy all reporting requirements under the Code §§ 6055 and 6056 (ACA) with respect to

individuals who perform services for the State.

Auditing. The State may audit Contractor's operations to ensure that the Contractor has complied with the statements made above.

14. DISABILITY ACCOMMODATIONS

The Department does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

15. REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

16. CONTRACT TERMINATION

16.1 Termination for Cause with Notice to Cure Requirement. The Department may terminate this contract in whole or in part for Contractor's failure to materially perform any of the services, duties, terms, or conditions contained in this contract after giving Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

16.2 Termination for Cause with Notice to Cure Requirement. Contractor may terminate this contract for the Department's failure to perform any of its duties under this contract after giving the Department written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than **30 days**. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

16.3 Reduction of Funding. The Department must by law terminate this contract if funds are not appropriated or otherwise made available to support the Department's continuation of performance of this contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the Department budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the Department shall terminate this contract as required by law. The Department shall provide Contractor the date the Department's termination shall take effect. The Department shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the Department shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the Department's termination takes effect. This is Contractor's sole remedy. The Department shall not be liable to Contractor for any other

payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

17. EVENT OF BREACH – REMEDIES

17.1 Event of Breach by Contractor. Any one or more of the following Contractor acts or omissions constitute an event of material breach under this contract:

- products or services furnished fail to conform to any requirement;
- failure to submit any report required by this contract;
- failure to perform any of the other terms and conditions of this contract, including but not limited to beginning work under this contract without prior Department approval; or
- voluntary or involuntary bankruptcy or receivership.

17.2 Event of Breach by Department. The Department's failure to perform any material terms or conditions of this contract constitutes an event of breach.

17.3 Actions in Event of Breach.

Upon Contractor's material breach, the Department may:

- terminate this contract under Section 17.1 and pursue any of its remedies under this contract, at law, or in equity; or
- treat this contract as materially breached and pursue any of its remedies under this contract, at law, or in equity.

Upon the Department's material breach, Contractor may:

- terminate this contract under Section 17.2 and pursue any of its remedies under this contract, at law, or in equity; or
- treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

18. FORCE MAJEURE

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this contract, unless the parties mutually agree that the obligation is excused because of the condition.

19. WAIVER OF BREACH

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

20. **CONFORMANCE WITH CONTRACT**

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the Department's Contracts Management Bureau's prior written consent. Product or services provided that do not conform to the contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

21. **LIAISONS AND SERVICE OF NOTICES**

21.1 Contract Liaisons. All project management and coordination on the Department's behalf must be through a single point of contact designated as the Department's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this contract must be coordinated between the Department's liaison and Contractor's liaison.

Dan Kissner is the Department's liaison.
2 Riverside Road
Boulder, MT 59632
Telephone: (406)-225-4502
E-mail: dkissner@mt.gov

Blain Bermingham is Contractor's liaison.
3110 E. Lyndale Ave
Helena, MT 59601
Telephone: (406)-449-1399

21.2 Notifications. The Department's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail, or facsimile. If notice is provided by personal service or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective within three business days of mailing. A signed and dated acknowledgement of the notice is required of both parties.

22. **MEETINGS**

22.1 Technical or Contractual Problems. Contractor shall meet with the Department's personnel, or designated representatives, to resolve technical or contractual problems occurring during the contract term or to discuss the progress made by Contractor and the Department in the performance of their respective obligations, at no additional cost to the Department. The Department may request the meetings as problems arise and will be coordinated by the Department. The Department shall provide Contractor a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the contract.

22.2 Failure to Notify. If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by the Department, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.

22.3 Department's Failure or Delay. For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of the Department's failure or delay in discharging any Department obligation, the Department shall review same and determine if such problem or circumstance was

in fact the result of such failure or delay. If the Department agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby, and provide for any additional charges by Contractor. This is Contractor's sole remedy. If the Department does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

23. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, if the contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this contract or particular work under this contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the Department or its designees. The parties agree that such transition assistance is governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The Department shall pay Contractor for any resources utilized in performing such transition assistance at the most current contract rates. If the Department terminates a project or this contract for cause, then the Department may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages the Department may have sustained as a result of Contractor's breach.

24. CHOICE OF LAW AND VENUE

Montana law governs this contract. The parties agree that any litigation concerning this bid, proposal, or this contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

25. TAX EXEMPTION

The Department of Montana is exempt from Federal Excise Taxes (#81-0302402).

26. AUTHORITY

This contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

27. SEVERABILITY CLAUSE

A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

28. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

28.1 Contract. This contract consists of 12 numbered pages and any Attachments as required. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

28.2 Entire Agreement. These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by the parties.

29. **WAIVER**

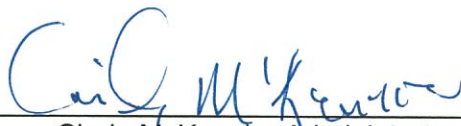
The Department's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

30. **EXECUTION**

The parties through their authorized agents have executed this contract on the dates set out below.

DEPARTMENT OF MONTANA
Montana Department of Corrections
5 S. Last Chance Gulch
Helena, MT 59601

KONE, Inc.
3110 E. Lyndale Ave
Helena, MT 59601



Cindy McKenzie, Administrator
Youth Services Division

DATE: 9-23-16



Jeff Blum, Sr. Vice President
KONE, Inc.

DATE: 10/3/2016

Approved as to Legal Content:


Legal Counsel (Date) 9-22-16